



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,415	03/31/2004	Hector Ray Hernandez JR.	9480	5689

7590 12/06/2005
JOHN J. CONNORS
Suite 220
1600 DOVE ST.
NEWPORT BEACH, CA 92660

EXAMINER

WILSON, LEE D

ART UNIT PAPER NUMBER

3723

DATE MAILED: 12/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

7/2/04

Office Action Summary	Application No.	Applicant(s)	
	10/814,415	HERNANDEZ ET AL.	
	Examiner	Art Unit	
	LEE D. WILSON	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/28/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4-6, 9-25, and 28-30 are rejected under 35 U.S.C. 102(b) as being anticipated by White (5271603).

White discloses a jack having a cast metal base (16), wheels (56&60), a substantially horizontal oriented platform (22), a pair of support arms (62), a cast metal lift arm (42), a driver (36), a handle (48).

In regard to claim 4, the axle extends between both forward ends. (Note: if the applicant later define the axle to be extending inbetween both ends this is an obvious design choice that would be rejected under the current 103 but it is not because the word between is used instead of inbetween.)

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3723

4. Claims 2, 3, and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over White (5271603) in view of Shockey (5221073) and Husaini et al (5984270).

- a. White discloses the claimed invention except for a specific weight of 2500 lbs. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the jack to handle the weight of 2500 lbs since it has been held that a discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). (It also noted that there are motorcycles that have this weight and this a motor cycle jack.)
- b. White discloses the claimed invention except for a safety stop on the base.
- c. Shockey and Hussaini et al disclose a jack having a base with a safety stop (Tallman fig.1 and Hussaini et al fig.3) which is used to provide a safety feature for the drive of the jack by supporting the arm.
- d. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the White device by providing the base with a safety feature having an elongated detachable member as taught by Shockey and Hussaini et al which is used to provide a safety feature for the drive of the jack by supporting the arm.
- e. White discloses the claimed invention except for a length of 10 to 40 inches and width of 10 to more than 25 inches. It would have been an obvious

Art Unit: 3723

matter of design choice to having a length of 10 to 40 inches and width of 10 to more than 25 inches, since such a modification would have involved a mere change in the size of a component. A change in size generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

5. Claims 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over White (5271603) in view of Tallman ((4018421).

- f. White discloses the claimed invention except for detachable handle
- g. Tallman discloses a jack having a detachable handle (claim 6) which allows the handle to be replaced or repaired.
- h. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the White device by replacing the handle with a detachable handle as taught by Tallman which allows the handle to be replaced or repaired.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bettencourt discloses a device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE D. WILSON whose telephone number is 571-272-4499. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH HAIL can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3723

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ldw

December 2, 2005

A handwritten signature in black ink, appearing to read "Lee D. Wilson", written in a cursive style.

LEE D. WILSON
PRIMARY EXAMINER